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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

IZZY'S DELI et al.,

Defendants and Respondents,

v.

LMA & SAI 1433 Wilshire LLC,

Plaintiff and Appellant.

B309861

(Los Angeles County
Super. Ct. No.
SC129964)

APPEAL from a judgment of the Superior Court of Los Angeles County, Elaine W. Mandel, Judge. Affirmed.

Cozen O'Connor, Frank Gooch III, Matthew E. Lewitz; Klapach & Klapach and Joseph S. Klapach for Plaintiff and Appellant.

Mitchell Silberberg & Knupp, Stephen E. Foster, and Andrew C. Spitser for Defendants and Respondents.

In a concurrently filed opinion resolving consolidated appeals (B306162 and B306180), we affirm on the merits two judgments against defendant and appellant LMA & SAI 1433 Wilshire LLC (LMA) that arise out of a dispute over the lease between LMA and its commercial tenant, plaintiff and respondent Izzy's Deli (Izzy's). In issuing the judgments in favor of Izzy's, the trial court found Izzy's to be the prevailing party. The lease between the parties includes a clause that states the prevailing party in an action to enforce or declare rights under the lease is entitled to attorney fees. Izzy's subsequently filed a motion seeking attorney fees and costs. The trial court granted the motion, awarding Izzy's \$328,276 in attorney fees and \$5,658.87 in costs.

LMA filed this appeal, which it expressly characterized as a "protective appeal" from the post-judgment award of attorney fees and costs. LMA argued that if we reversed the underlying judgment in cases B306162 and B306180, we should also reverse the trial court's order awarding attorney fees and costs. LMA presents no other arguments challenging the fees and costs order. Because we affirm by separate filed opinion the trial court's judgments in favor of Izzy's in the accompanying appeals, this appeal fails.

DISPOSITION

The trial court's order granting attorney fees and costs is affirmed. Izzy's shall recover its costs in this appeal.

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BAKER, Acting P. J.

We concur:

MOOR, J.

FEUER, J.*

* Associate Justice of the Court of Appeal, Second Appellate District, Division Seven, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.